

**Sunnyvale Municipal Code Chapter 19.70**  
**CONVERSION OF RENTAL HOUSING TO COMMUNITY HOUSING PROJECTS**

**19.70.010. Purpose and intent.**

In addition to all other requirements and procedures as set forth in this code pertaining to conversions, as defined here, the additional requirements provided by this chapter shall also apply. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.020).

**19.70.020. Apartment vacancy surplus required for conversion.**

No use permit or special development permit for conversion of apartment to community housing units shall be approved, nor shall the conversion of any apartment project to a community housing project be approved, unless and until there has existed, for the period of at least one year preceding such application, an apartment vacancy surplus determined pursuant to the procedure set forth in this chapter. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.030).

**19.70.030. Determination of apartment vacancy rate and surplus.**

In April and October of each year, the director of community development shall determine, on the basis of a representative sampling of apartment buildings, the apartment vacancy rate and the apartment vacancy surplus, if any. Such determination shall be set forth in a written report to the planning commission and city council. New market priced apartments available to the general public, for which a certificate of use and occupancy has been issued since the last vacancy survey, shall be added on a unit-for-unit basis to either reduce the apartment vacancy deficiency or increase the apartment vacancy surplus. Apartments existing as of the last vacancy survey, for which demolition permits have since been issued, or for which a use permit or special development permit for conversion to community housing has been approved, shall be added or subtracted on a unit-for-unit basis to either increase the apartment vacancy deficiency or reduce the apartment vacancy surplus. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.040).

**19.70.040. Use permits and special development permits.**

- (a) A use permit or special development permit, issued under Chapters 19.88 or 19.90 shall be required prior to the conversion of apartments to

community housing units, and prior to the approval of any tentative or parcel map in furtherance of same, in any zoning district.

(b) When the situation of an apartment vacancy surplus exists as of the most recent determination, an application for approval of a use permit or special development permit for conversion of apartments to community housing units may be filed with the department of community development semiannually during the months of May and November of each year if the number of lots, parcels, units or rights of exclusive occupancy proposed does not exceed the apartment vacancy surplus.

(c) When more than one use permit or special development permit application is filed with the department of community development, as provided under subsection (b) above, during any one filing period, and collectively the number of lots, parcels, units or rights of exclusive occupancy proposed exceed the apartment vacancy surplus, the city council upon recommendation from the planning commission and the director of community development may grant approval to those projects receiving the highest composite weighted score as determined pursuant to Section 19.70.060. In no event shall the collective number of lots, parcels, units or rights of exclusive occupancy approved for conversion exceed the apartment vacancy surplus; provided, however, that the city council may approve conversion of an apartment project where the total number of lots or units proposed does not exceed the apartment vacancy surplus by more than twenty-five percent, and:

(1) The developer agrees to retain and not to sell a block of units equal in number to the amount by which the apartment vacancy surplus is exceeded;

(2) The developer shall not increase rent levels for such retained units as charged at the time of application, in excess of the annual cost of living increase published for the housing segment of the San Francisco Bay Area Consumer Price Index.

(d) In addition to the other requirements of this title, such applications shall be accompanied by the following:

(1) Name, address, age and length of occupancy of every tenant and occupant, including children, in the project on the date of application;

(2) Current rents for each unit, along with the date and amount of prior rent increases for the preceding three year period;

(3) The approximate proposed sales price of each unit, and the pro forma budget proposed for submission to the California Real Estate Commissioner or similar estimate of projected annual operating and maintenance fees and assessments;

(4) All organizational documents:

- (i) The declaration of restrictions shall prohibit the unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels and aircraft, but not including attached camper bodies and motor homes not exceeding eighteen feet in length, unless approved storage areas are provided,
  - (ii) The declaration of restrictions shall provide for approval by the city of Sunnyvale prior to any future modification of site plans, architectural elevations, exterior materials and colors or of any of the organizational documents,
  - (iii) The declaration of restrictions shall require the designation of a project manager residing in the project or maintaining an office onsite to represent the association with full powers to enforce the various provisions of such document;
- (5) A property report prepared by a registered engineer or licensed qualified contractor describing the physical condition and estimated remaining useful life of each of the various elements of the project proposed for conversion, including the following: building foundations, roofs, walls, sound insulation, mechanical, electrical and plumbing systems, onsite utilities, heating and air conditioning systems, and fire protection systems, together with recommendations relating thereto in order to assure their continued useful life for a minimum of five years;
- (6) A structural pest control report prepared within sixty days of the date of application by a licensed structural pest control operator, pursuant to Sections 8516, et seq. of the California Business and Professions Code, or successor section;
- (7) A building history report, including the date of construction of all elements of the project and a statement regarding the current ownership of all improvements and underlying land;
- (8) A statement of any proposed repairs or improvements proposed to be completed prior to the sale of units, along with a time schedule therefor;
- (9) A soils report, if not previously prepared, in compliance with the provisions of the Subdivision Map Act;
- (10) A copy of the application to the Department of Real Estate of the state of California for issuance of a final public report for the proposed conversion, including all attachments and exhibits thereto required by the department, pursuant to Section 11011 of the California Business and Professions Code, or successor section;

(11) Any other information which, in the opinion of the director of community development, will assist in determining whether the proposed project will be consistent with the purposes of this title;

(12) The director of community development may waive the submission of certain of the above factual items if it is demonstrated that such information is not available and cannot be obtained. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.050).

**19.70.050. Minimum requirements.**

In addition to the other provisions of this title, each project approved for conversion shall comply with the following minimum requirements:

(a) Prohibition of Discrimination against Prospective Buyers with Children. Under no circumstances shall a project approved for conversion limit sales to families or individuals without children, unless it is demonstrated that the project as designed and built is not suitable for accommodation of children.

(b) Tenant Protection.

(1) The developer shall provide to each existing tenant an irrevocable, nontransferable, preemptive right to purchase the lot or unit presently occupied, or right of exclusive occupancy for same at a price no greater than the price offered to the general public for such lot or unit. Such right shall be irrevocable, unless declined in writing, for a period of ninety days after the commencement of sales or issuance of the final public report by the real estate commissioner.

(2) The developer shall offer an extension of tenancy of all existing lease or rental agreements to expire not less than ninety days subsequent to the time of commencement of sales or issuance of the final public report by the real estate commissioner.

(3) The developer shall permit any tenant to terminate any lease or rental agreement without any penalty whatsoever after filing of an application to convert to community housing, provided such tenant notifies the developer in writing thirty days in advance of such termination.

(4) Expenses for temporary relocation, including all moving costs and the securing of and paying for comparable replacement housing within the community for any tenant who has not entered into a contract to purchase his or her unit or lot, who is displaced on a temporary basis in order for the developer to perform necessary repairs to a unit in connection with a conversion shall be assumed in full by the developer.

(5) An existing tenant's rent shall not be increased during the remaining period of residency from date of application for conversion, in excess of the housing segment of the annual cost of living increase published for the San Francisco Bay Area Consumer Price Index.

(c) Buyer Protection. The developer shall furnish each prospective purchaser of a lot or unit a true copy of each of the following documents:

- (1) The use permit or special development permit as issued under the provisions of this chapter;
- (2) Property report;
- (3) Structural pest report;
- (4) Building history report;
- (5) Soils report;
- (6) Statement of compliance issued by the Real Estate Department of the State of California, or its successor document relating to operating and maintenance funds during startup.

(d) Site Improvements and Amenities. Each of the following site improvements and amenities shall be complete as of the commencement of sales or issuance of the final public report by the real estate commissioner:

- (1) A minimum of three hundred cubic feet of weatherproof, lockable storage space shall be provided for each unit in a location and of a design as shown on plans approved by the city council, and with hardware as approved by the director of public safety. Such storage space shall be in addition to normal kitchen cabinets, pantries or clothes closets.
- (2) Individual hookups shall be provided in each unit to accommodate washing machines and dryers, unless common facilities, including all new appliances, are provided on the basis of one washer and dryer for each five units or fraction thereof.
- (3) All existing and proposed on-site utilities, including communication service and distribution facilities, and electricity service and boundary distribution lines of thirty-four and one-half kV or less, shall be placed underground to the nearest off-site pole, in a manner as prescribed under Chapter 19.38 of this code.
- (4) Off-street parking shall be provided as required by Chapter 19.46.
- (5) The following fire prevention and building safety standards shall be met:

- (i) Developer shall demonstrate that wall and floor/ceiling assemblies comply with fire wall separation standards, as specified in the Uniform Building Code;
  - (ii) Developer shall demonstrate that wall and floor/ceiling assemblies conform to the sound insulation performance criteria promulgated in Title 25, California Code of Regulations, Section 1092 or its successor;
  - (iii) A smoke detector of design as approved by the fire prevention division shall be provided in each unit;
  - (iv) Developer shall demonstrate that residential buildings conform to energy conservation standards promulgated in Title 24, Part 6, Article 1, California Code of Regulations, or its successor.
- (6) The following shall be applicable to utility distribution systems:
- (i) Gas and electric service shall be separately metered and billed for each individual lot or unit;
  - (ii) In the case of a community housing project in which units are not vertically separated by floor/ceiling assemblies, water service shall also be separately metered and billed for each individual lot or unit, as well as for all common facilities, the latter being billed to the association.
- (7) The following utility safety devices shall be provided for each lot or unit:
- (i) Water shutoff valves shall be provided in accessible locations for all outlets;
  - (ii) Electric panels shall be provided in accessible locations controlling the entire service to each unit.
- (8) Including domestic appliances, which are determined by the director of community development to be a source or potential source of vibration or noise, shall be shock mounted, isolated from the floor and ceiling, or otherwise insulated in a manner approved by the director of community development to lessen the transmission of vibration or noise.
- (9) All major appliances provided to individual lots or units shall be guaranteed to operate properly for a period of one year.
- (e) Compliance with Codes. The design, improvement and construction of a community housing project shall conform to all requirements of all building, fire, housing, subdivision and zoning codes, and other applicable local, state or federal laws or ordinances relating to protection of public health and

safety in effect at the time of the filing of the use permit or special development permit. Additionally, any violations of the latest adopted edition of the Uniform Housing Code relating specifically to provisions protecting health and safety of residents, as determined by the director of community development following a walkthrough inspection of each unit and building, shall be corrected and any equipment or facilities which are found to be deteriorated or hazardous, shall be repaired or replaced as directed by the director of community development. The developer shall repair or replace any damaged or infested areas in need of repair or replacement as shown in the structural pest report. (Ord. 2623-99 § 1 (part); prior zoning code § 19.84.060).

**19.70.060. Evaluation of projects and application scoring.**

(a) In addition to satisfying the minimum requirements as provided for under Section 19.70.050, each use permit or special development permit application for conversion to community housing shall be evaluated with respect to the following measures which may mitigate the impact of a conversion on the existing housing market and which provide amenities to the project. A composite weighted score of at least thirty shall be required before any application can be approved for conversion.

(b) In the event of selection between two or more applications during a period of limited apartment vacancy surplus, as outlined in Section 19.70.030, applications shall be ranked and selected for approval in order of the highest composite weighted scores. Those applications which are found to satisfy all "minimum requirements" and which achieve a composite weighted score of thirty but fail to receive approval during any given evaluation period, shall automatically be deemed as denied without prejudice and shall automatically be reconsidered during the subsequent evaluation period. Each application for conversion to community housing shall be evaluated and scored relative to provision of the following optional measures as proposed by the developer. A weighted number score, as prescribed below, shall be awarded for compliance with each respective measure. A composite weighted score shall be assigned to each application by totaling each earned weighted component thereof.

(c) Mitigation of social and economic impact to existing tenants and prospective buyers:

(1) Extension of irrevocable, nontransferable, preemptive right of any existing tenant to purchase his or her unit in a manner as provided for pursuant to Section 19.70.050(b)(1), for a period of one hundred eighty days. Score: 10

(2) Extension of tenancy of lease or rental agreements for existing tenants in a manner as provided for pursuant to Section 19.70.050(b)(2), for a period of one hundred eighty days. Score: 10

(3) Provision of relocation assistance to tenants electing not to purchase and not qualifying under subsection (5) hereof in an amount equal to two months rent at the tenant's rate in effect at the time of application for conversion. Score: 20

(4) Provision of relocation assistance to displaced tenants by preparing without charge a current list of available apartments of comparable price and size within three miles of the project site, to be supplied to all tenants and to the department of community development prior to commencement of sales or issuance of a final public report. Score: 5

(5) Extension of tenancy by lease or rental agreement for tenants sixty-two years of age and older who elect not to purchase or relocate, in a manner as provided for pursuant to Section 19.70.050(b)(2), for the life of the tenant(s). Score: Variable depending on the percentage of tenants sixty-two years of age, up to a maximum of twenty

(6) Provision of an irrevocable, nontransferable, preemptive right for existing tenants to purchase the lot or unit presently occupied at a price ten percent below that offered to the general public within the time period prescribed under Section 19.70.050(b)(1). Score: 20

(7) Posting of an irrevocable bond or warranty with the project's homeowners association assuring the operation and maintenance of all elements of the project as addressed in the property report for a period of one year. Score: 15

(8) Provision to allow fifty percent of rent or lease payments collected subsequent to approval of a use permit or special development permit for conversion to community housing to be applied toward a down payment for purchase of the unit currently occupied. Score: 15

(d) Provision of additional project amenities:

(1) Site and landscaping plans as proposed offer an exceptional and above normal quantity and quality of passive recreation amenities, including landscape types, private and common open spaces, patios and related amenities. Score: Variable depending on the quality of plans presented up to a maximum of ten

(2) Site and architectural plans, as proposed, offer exceptional active recreational amenities, including recreation buildings, barbecue areas, pools, play equipment for children, etc. Score: Variable depending on the quality of plans presented up to a maximum of 10



(3) Site and architectural plans, as proposed, include provision for solar hot water heating for all lots or units, common buildings and pools. Score: 15

(4) Site and architectural plans, as proposed, include provision for other energy saving amenities, including solar space heating, efficient area lighting systems, maximized use of natural lighting for indoor spaces, use of deciduous tree cover on south and westerly building exposures, etc. Score: Variable depending on nature and extent of amenities provided up to a maximum of fifteen. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.070).

**19.70.070. Certificate of use and occupancy for community housing project.**

Prior to the sale, lease, use or occupancy of any units or building of a project as community housing, the developer shall first obtain a certificate of use and occupancy for each such unit or building. Such certificate shall be obtained regardless of the previous use, occupancy or tenancy or whether any changes, alterations or modifications have been made to any portion of any existing unit or building. Application for a certificate of use and occupancy for community housing shall be made to the director of community development upon satisfaction of each of the foregoing provisions of this chapter. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.080).

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